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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re C. M., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

C. M.,

Defendant and Appellant.

D056398

(Super. Ct. No. J223052)

APPEAL from a judgment of the Superior Court of San Diego County, George W. Clarke, Judge. Affirmed.

On June 9, 2009, the District Attorney for the County of San Diego filed a wardship petition under Welfare and Institutions Code section 602 charging C. M., a minor, with possession of a knife on school grounds. (Pen. Code,¹ § 626.10, subd. (a).) After C. M. unsuccessfully moved to suppress evidence of the knife under Welfare and

¹ All statutory references are to the Penal Code unless otherwise specified.

Institutions Code section 700.1, he admitted the charge. At the disposition hearing, the court placed C. M. on probation with several terms and conditions, including community service and payment of court fines. C. M. appeals, contending the court erred by denying his suppression motion. We affirm the judgment.

FACTS

On November 21, 2008, substitute teacher Doug Hackett notified Paul Hedeberg, the assistant principal of El Capitan High School, he had overheard C. M. and another student discussing a possible drug sale. A campus supervisor escorted C. M. to Hedeberg's office. Hedeberg informed C. M. of the tip and asked to search his backpack. C. M. said, "Go ahead. There is nothing in there." Hedeberg found nothing in the backpack. Hedeberg asked C. M. to empty his pockets onto the desk and C. M. complied without objection, retrieving a knife with a three or four-inch blade from his pants pocket.

DISCUSSION

C. M. contends the court erred by denying his motion to suppress evidence of the knife. He asserts the search was unlawful under the Fourth Amendment because Hedeberg lacked reasonable suspicion or specific articulable facts to indicate C. M. was involved in criminal activity. He further asserts he did not consent to the search of his pants pockets.

I. *Standard of Review*

In reviewing a ruling on a suppression motion, we determine whether the trial court's factual findings, express or implied, are supported by substantial evidence. (*In re*

Lisa G. (2005) 125 Cal.App.4th 801, 805.) We then exercise our independent judgment to determine whether the facts support the trial court's legal conclusions. (*Ibid.*)

II. *The Search was Based on Reasonable Suspicion of Illegal Activity*

Although the Fourth Amendment prohibition on unreasonable searches applies to school officials, a more relaxed constitutional standard applies to school settings. (*New Jersey v. T.L.O.* (1985) 469 U.S. 325, 333; 340.) A court must balance the child's privacy interest with the substantial interest of teachers and administrators in maintaining discipline on school grounds and protecting students. (*Id.* at p. 339.)

The legality of a search depends on whether a school official acted reasonably under all of the circumstances of the search. (*New Jersey v. T.L.O.*, *supra*, 469 U.S. at p. 340.) Determining the reasonableness of a search is a two-fold inquiry: (1) whether the search was justified at its inception, and (2) whether the scope of the search, as actually conducted, was reasonably related to the circumstances that justified the initial search. (*Ibid.*) A school official's search of a student will be " 'justified at its inception' " when reasonable grounds exist for suspecting the search will disclose evidence the student has violated or is violating a criminal statute or a school rule. (*Id.* at pp. 341-342.) "Such a search will be permissible in its scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive" in light of the nature of the suspected violation. (*Ibid.*) Further, "articulable facts supporting that reasonable suspicion" must exist; a search of a student is "unlawful if predicated on a mere curiosity, rumor, or hunch." (*In re William G.* (1985) 40 Cal.3d 550, 564.)

Here, the search of C. M. was justified at its inception because Hedeberg had reasonable suspicion, supported by a credible tip, that the search would disclose evidence of a possible drug transaction. Hackett reported the overheard conversation to Hedeberg's office and Hedeberg personally discussed the matter with him. Hedeberg's suspicion of the possible drug sale was not based on a mere "rumor" or "hunch," but was supported by the teacher's report. The requirement of reasonable suspicion is not a rule of absolute certainty, but only a condition of "sufficient probability." (See *Hill v. California* (1971) 401 U.S. 797, 804.) In this instance, Hackett's tip provided sufficient probability based on rational inferences that C. M. was involved in a drug sale.

Further, the search was permissible in scope because the school's actions were reasonably related to its objectives, that is, the discovery of drugs or drug paraphernalia on campus. The search was limited to C. M.'s backpack and pants pockets, where he logically might conceal illegal drugs. C. M. presented no evidence to suggest the search was excessive in scope or duration. Under these circumstances, the search was lawful.

In light of our conclusion that sufficient evidence supported the juvenile court's finding the search was valid under the reasonable suspicion standard, we need not consider whether C. M. consented to the search.

DISPOSITION

The judgment is affirmed.

O'ROURKE, J.

WE CONCUR:

McCONNELL, P. J.

AARON, J.